

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ACL COMPLAINT NO. 98-508

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
IN THE MATTER OF  
TARTARIC MANUFACTURING CORPORATION, INC.  
PLANT #2  
CLASS II SURFACE IMPOUNDMENTS  
NEWMAN PLANT  
STANISLAUS COUNTY

This Complaint is issued to Tartaric Manufacturing Corporation, Inc. (hereafter referred to as Discharger) who operates Class II surface impoundments, based on a finding of violation of Waste Discharge Requirements (WDRs) Order No. 98-183 and provisions of Water Code Section 13350(a), and (e) which authorize the imposition of Administrative Civil Liability (ACL).

The Executive Officer finds, with respect to the Discharger's acts and failure to act, the following:

1. The Discharger owns and operates a calcium tartrate plant on property at 2155 Hills Ferry Road in Newman, California. On 11 September 1998, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. 98-183 for construction of two additional surface impoundments to make a total of 5 Class II surface impoundments.
2. Between about 13 October and 22 October 1998, in violation of WDRs, the Discharger pumped approximately 100,000 gallons of wastewater from a stormwater basin to an irrigation ditch which flows to China Island Wildlife Refuge and then to the San Joaquin River.
3. The beneficial uses of the San Joaquin River are municipal and industrial, and agricultural supply; water contact and noncontact recreation; esthetic enjoyment; groundwater recharge; fresh water replenishment; and preservation and enhancement of fish, wildlife and other aquatic resources.
4. The Board was informed of a discharge on 13 October 1998 by the operator of the City of Newman Wastewater Treatment Plant after the discharge flowed through their facility. The City of Newman contacted the Board again on 22 October 1998 regarding the discharge.

5. On 23 October 1998 Board staff inspected the facility. Standing water was observed in the irrigation ditch adjacent to and downstream of the Tartaric facility. There was no water observed in the irrigation ditch upstream of the Tartaric facility. Although the stormwater pond had reportedly been emptied during the discharge of the previous day, there were approximately three feet of water in the stormwater pond during the 23 October 1998 inspection. The Discharger reported the previous day's discharge was due to the mistake of a new employee who pumped water from the stormwater pond to the nearby irrigation ditch, rather than to the green tank.
6. The Discharger reported the stormwater pond contained cooling water and wash water from the plant operations. A sample collected during the 23 October 1998 inspection indicates the stormwater pond contains wastewater from the facility. This water was a reddish color, smelled like vinegar, and had a pH of 4.19 and an electrical conductivity of 1,920  $\mu\text{mhos/cm}$ . The Discharger does not have a stormwater permit or WDRs for storage of wastewater in an unlined pond.
7. A sample of water collected on 23 October 1998 from the irrigation ditch approximately one eighth of a mile downstream of the stormwater pond had a pH of 3.88 and an electrical conductivity of 4,640  $\mu\text{mhos/cm}$ . This water was also reddish in color and smelled like vinegar.
8. A sample of water collected on 23 October 1998 from the China Island Wildlife Refuge, approximately one mile downstream of the Tartaric facility, had a pH of 5.25 and an electrical conductivity of 4,950  $\mu\text{mhos/cm}$ . This water was slightly red and several dead fish and many dead crawdads were observed in the water within the China Island Wildlife Refuge during the inspection.
9. Board staff has received over 125 complaints from nearby residents about odors from the Tartaric facility on 15 different days between 2 September 1998 and 27 October 1998. During an inspection on 15 September 1998 staff detected a strong odor between ponds 1 and 2 and offsite.
10. This discharge of wastewater into the stormwater pond and then into the adjacent irrigation ditch, and the odor from the Class II surface impoundments has created a condition of pollution and nuisance.
11. The Discharger received an Administrative Civil Liability Complaint on 19 December 1997 concerning violations of WDRs No. 97-196 for discharges of wastewater from the Class II surface impoundment to land and waters of the state. The Discharger paid a civil liability of one hundred thousand dollars for this previous ACL Complaint.

12. The Discharger, by the acts and omissions discussed above, intentionally and negligently violated WDRs Order No. 98-183 which reads, in part, as follows:

*“A. Discharge Prohibition*

- 3. The discharge of solid waste or liquid waste to surface waters, surface waster drainage course, or groundwater is prohibited.*

*“B. Discharge Specifications*

- 1. The treatment or disposal of waste shall not cause pollution or a nuisance as defined in the California Water Code, Section 13050.*
- 2. Objectionable odors originating at this facility shall not be perceivable beyond the limits of the pond areas.*
- 3. Waste shall only be discharged into, and shall be confined to, the Class II surface impoundments and the settling basin specifically designed for their containment.”*

14. Water Code 13350(a)(2) states:

*“Any person who...(2) in violation of any waste discharge requirement or other order or prohibition issued, reissued, or amended by a regional board or the state board, intentionally or negligently discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state and creates a condition of pollution or nuisance...may be liable civilly in accordance with subdivision (d), (e), or (f).”*

15. Water Code 13350(e)(1) states:

*“When there is a discharge, and a cleanup and abatement order is not issued pursuant to Section 13304, liability shall be imposed as follows:*

*Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) for a violation of this section in an amount which shall not exceed ten dollars (\$10) for each gallon of waste discharged.”*

16. Water Code 13350(f)(1) states:

*“When there is no discharge, but an order issued by the regional board is violated, liability shall be imposed as follows:*

*Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) for a violation of this section in an amount which shall not exceed one thousand dollars(\$1,000), but shall not be less than one hundred dollars (\$100), for each day in which the violation occurs.”*

17. This Order assesses liability for the illegal discharge of wastewater to the stormwater pond, illegal discharge of wastewater from the stormwater pond to the irrigation ditch between 13 and 22 October 1998, and odors noted offsite of the facility between early September 1998 and late October 1998.
18. Water Code Section 13350(e)(1) authorizes Administrative Civil Liability not exceeding ten dollars (\$10) for each gallon of waste discharged. Between 13 and 22 October 1998, approximately 100,000 gallons of wastewater were discharged to an unlined, unpermitted stormwater pond and then to an irrigation ditch in violation of the WDRs for a maximum liability of one million dollars (\$1,000,000). This discharge resulted in fish kills at the downstream China Island Wildlife Refuge. There is no minimum liability that is required to be imposed under Section 13350(e)(1).
19. Water Code Section 13350(f)(1) authorizes Administrative Civil Liability not exceeding one thousand dollars (\$1,000) for each day of violation of an order issued by the regional board when there is no discharge. Between early September and late October 1998, staff received complaints on at least 15 days from Newman residents concerning odors from the Tartaric facility, for a maximum liability of fifteen thousand dollars (\$15,000). The minimum liability to be imposed under Section 13350(f)(1) is one thousand five hundred dollars (\$1,500).

TARTARIC MANUFACTURING CORPORATION, INC. IS HEREBY GIVEN  
NOTICE THAT:

1. I am proposing that Administrative Civil Liability be imposed in the amount of two hundred and fifty thousand dollars (\$250,000) based upon a review of the following factors:  
  
*“...the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.”* (Water Code Section 13327)
2. A hearing shall be held 11 December 1998 unless the Discharger agrees to waive the hearing and pay the imposed civil liability of two hundred fifty thousand dollars (\$250,000) in full.

3. If the hearing is held, the Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. In lieu of a hearing, the Discharger may waive the right to a hearing. If you wish to waive the hearing, please sign the waiver and return it and the amount of civil liability, in a check made payable to the State Water Resources Control Board, to the Board's office at 3443 Routier Road, Sacramento, CA 95827, by **4:30 p.m., 12 November 1998.**

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GARY M. CARLTON, Executive Officer

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(Date)

ACL NO.  
TARTARIC MANUFACTURING CORPORATION, INC.  
PLANT #2, NEWMAN FACILITY  
STANISLAUS COUNTY

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## **WAIVER**

I agree to waive Tataric Manufacturing Corporation, Inc. right to a hearing before the Regional Board and herewith remit payment in full for the Civil Liability imposed.

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(Name)

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(Title)

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(Date)